

**ASSEMBLY BILL**

**No. 1125**

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**Introduced by Assembly Member Pavley**  
**(Coauthors: Assembly Members Hancock and Laird)**  
(Coauthor: Senator Kuehl)

February 22, 2005

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An act to add Chapter 8.4 (commencing with Section 42451) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1125, as introduced, Pavley. Household Battery Recycling Act. Existing law authorizes the California Integrated Waste Management Board to conduct a study on the disposal and recyclability of household batteries.

This bill would enact the Household Battery Recycling Act of 2006 and would define terms for purposes of the act, including "household battery."

The act would require, on and after February 1, 2006, a retailer of household batteries sold in this state to have in place a system for the acceptance and collection of used household batteries for reuse, recycling, or proper disposal with specified elements, including the take-back at no cost to the consumer of a used household battery, the type or brand of which the retailer sold or previously sold.

The bill would prohibit the sale of a household battery to a consumer in this state after February 1, 2006, unless the retailer of that household battery complies with the act.

The bill would require the Department of Toxic Substances Control, by February 1, 2007, and each February 1 thereafter, to post on its Web site an estimated California recycling rate for household batteries.

The bill would also direct a state agency that purchases household batteries to require each prospective bidder, to certify that it and its agents, subsidiaries, partners, joint venturers, and subcontractors for the procurement, have complied with the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 8.4 (commencing with Section 42451) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 8.4. HOUSEHOLD BATTERY RECYCLING ACT  
OF 2006

Article 1. General Provisions

42451. (a) This chapter shall be known, and may be cited, as the Household Battery Recycling Act of 2006.

(b) The Legislature finds and declares all of the following:

(1) The Department of Toxic Substances Control has determined that, due to their hazardous material content, the solid waste disposal of all household batteries should be prohibited. A regulation authorizing a temporary householder exemption to this prohibition will expire, by its own terms, in February 2006.

(2) The purpose of this chapter is to enact a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of previously used household batteries.

(3) It is the further purpose of this chapter to enact a law that establishes a program that is convenient for consumers and the public to return, recycle, and ensure the safe and environmentally sound disposal of used household batteries, and that provides for a system that does not charge the consumer when a household battery is returned.

(4) It is the intent of the Legislature that the cost associated with the handling, recycling, and disposal of used household batteries be the responsibility of the producers and consumers of household batteries, and not local government or their service providers, state government, or taxpayers.

(5) In order to reduce the likelihood of illegal disposal of hazardous materials, it is the intent of this chapter to ensure that all costs associated with the proper management of used household batteries is internalized by the producers and consumers of household batteries at or before the point of purchase, and not at the point of discard.

(6) Manufacturers and retailers of household batteries, in working to achieve the goals and objectives of this chapter, should have the flexibility to partner with each other and with those private and nonprofit business enterprises that currently provide collection and processing services to develop and promote a safe and effective used household battery recycling system for California.

(7) The producers of household batteries should reduce and, to the extent feasible, ultimately phase out the use of hazardous materials in household batteries.

(8) Household batteries, to the greatest extent feasible, should be designed for extended life and reuse.

(9) The purpose of this chapter is to provide for the safe, cost free, and convenient collection, reuse, and recycling of 100 percent of the household batteries discarded or offered for recycling in the state.

(10) In establishing a cost-effective system for the recovery, reuse, recycling, and proper disposal of used household batteries, it is the intent of the Legislature to encourage manufacturers and retailers to build on the retailer take-back systems initiated by the Rechargeable Battery Recycling Coalition and others.

## Article 2. Definitions

42452. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) “Consumer” means a purchaser or owner of a household battery. “Consumer” also includes a business, corporation, limited partnership, nonprofit organization, or governmental entity, but does not include an entity involved in a wholesale transaction between a distributor and retailer.

(b) “Department” means the Department of Toxic Substances Control.

(c) (1) “Household battery” means a device consisting of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy. For purposes of this subdivision, “electrochemical cell” means a system consisting of an anode, cathode, and an electrolyte, plus those electrical and mechanical connections that may be needed to allow the cell to deliver or receive electrical energy.

(2) “Household battery” also includes an intact, unbroken battery from which the electrolyte has been removed.

(3) “Household battery” does not include a spent lead-acid battery that is managed under Article 10.5 (commencing with Section 25215) of Chapter 6.5 of Division 20 of the Health and Safety Code. A small sealed lead-acid storage battery is not a lead-acid battery for purposes of this section.

(d) “Retailer” means a person who sells a household battery in the state to a consumer, including a manufacturer of a household battery who sells that household battery directly to a consumer. A sale includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

(e) (1) “Sell” or “sale” means a transfer for consideration of title or of the right to use, by lease or sales contract, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means, but does not include a wholesale transaction with a distributor or a retailer.

(2) For purposes of this subdivision and subdivision (d), “distributor” means a person who sells a household battery to a retailer.

(f) “Used household battery” means a household battery that has been previously used and is made available, by a consumer, for reuse, recycling, or proper disposal.

### Article 3. Household Battery Recycling

42453. (a) On and after February 1, 2006, every retailer of household batteries sold in this state shall have in place a system for the acceptance and collection of used household batteries for reuse, recycling, or proper disposal.

1 (b) A system for the acceptance and collection of used  
2 household batteries for reuse, recycling, or proper disposal shall,  
3 at a minimum, include all of the following elements:

4 (1) The take-back at no cost to the consumer of a used  
5 household battery, the type or brand of which the retailer sold or  
6 previously sold.

7 (2) If the retailer delivers a household battery directly to a  
8 consumer in this state, the system provides the consumer, at the  
9 time of delivery, with a mechanism for the return of used  
10 household batteries for reuse, recycling, or proper disposal, at no  
11 cost to the consumer.

12 (3) Making information available to consumers about  
13 household battery recycling opportunities provided by the retailer  
14 and encouraging consumers to utilize those opportunities. This  
15 information may include, but is not limited to, one or more of the  
16 following:

17 (A) Signage that is prominently displayed and easily visible to  
18 the consumer.

19 (B) Written materials provided to the consumer at the time of  
20 purchase or delivery, or both.

21 (C) Reference to the household batteries recycling opportunity  
22 in retailer advertising or other promotional materials, or both.

23 (D) Direct communications with the consumer at the time of  
24 purchase.

25 42454. On and after February 1, 2006, it is unlawful to sell a  
26 household battery to a consumer in this state unless the retailer of  
27 that household battery complies with this chapter.

28  
29 Article 4. Statewide Recycling Goals  
30

31 42456. On or before February 1, 2007, and each February 1  
32 thereafter, the department shall post on its Web site an estimated  
33 California recycling rate for household batteries, the numerator  
34 of which shall be the estimated number of household batteries  
35 returned for recycling in California during the previous calendar  
36 year, and the denominator of which is the number of household  
37 batteries estimated to be sold in this state during the previous  
38 calendar year.

## Article 5. State Agency Procurement

42457. (a) A state agency that purchases household batteries shall require each prospective bidder, to certify that it, and its agents, subsidiaries, partners, joint venturers, and subcontractors for the procurement, have complied with this chapter and any regulations adopted pursuant to this chapter, or to demonstrate that this chapter is inapplicable to all lines of business engaged in by the bidder, its agents, subsidiaries, partners, joint venturers, or subcontractors.

(b) Failure to provide certification pursuant to this section shall render the prospective bidder and its agents, subsidiaries, partners, joint venturers, and subcontractors ineligible to bid on the procurement of household batteries.

(c) The bid solicitation documents shall specify that the prospective bidder is required to cooperate fully in providing reasonable access to its records and documents that evidence compliance with this chapter.

(d) Any person awarded a contract by a state agency that is found to be in violation of this section is subject to the following sanctions:

(1) The contract shall be voided by the state agency to which the equipment, materials, or supplies were provided.

(2) The contractor is ineligible to bid on any state contract for a period of three years.

(3) If the Attorney General establishes in the name of the people of the State of California that any money, property, or benefit was obtained by a contractor as a result of violating this section, the court may, in addition to any other remedy, order the disgorgement of the unlawfully obtained money, property, or benefit in the interest of justice.